

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 3836 of 2005

Between:

B. Narasimha Goud, S/o. Rajaiah Goud,
Owner of TATA (407) Make bearing No. AP-28T-9117,- R/o. Pillaipalle Village,
Pochampalli Mandal, Nalgonda District.

..... PETITIONER

AND

- 1 The Dy. Commissioner of Proh & Excise, Hyderabad Division,
Opp. Exhibition Grounds, J.N. road, at Nampally, Hdyyerabad.
- 2 The Sub Inspector of Proh & Excise, (HO) Musheerabad,
at Musheerabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings vide Cr.No.C3/4771/2004, dt. 11.2.2005 and crime No. 107 of 2004-05 dt. 30.11.2004 passed by the 1st respondents as illegal, in pursuance of the Excise Police para 16 of the present Excise Policy issued G.O.Ms.No.767 Revenue (Excise-II) Department, dt. 29.9.2004, and pass such other order or orders.

Counsel for the Petitioner: MR.B.SAI RAM GOUD

Counsel for the Respondent No.: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following :

ORAL ORDER:

Heard both sides. Perused the material placed before me.

Petitioner, being aggrieved by the proceedings dated 11.2.2005, issued by the 1st respondent, rejecting his request to release the lorry bearing No. AP 28T 9117 towards interim custody, pending enquiry, filed this writ petition.

It is not in dispute that against the action of the 2nd respondent, an appeal had been preferred by the petitioner and the same is pending before the Deputy Commissioner for Excise-1st respondent.

However, in WPMP No. 5178 of 2005, this Court, by an order dated 1.3.2005, gave a direction to the respondent as follows:

“Having regard to the facts and circumstances of the case, I feel it expedient, in the light of the interim order passed by another learned judge of this court in WPMP No. 26043 of 2004 in W.P. No. 19907 of 2004 to direct the 1 respondent to release the lorry bearing No. AP 28 T-9117 to the petitioner on the condition of the petitioner furnishing a written undertaking to the first respondent not to alienate or otherwise dispose of the lorry pending finalization of further proceedings under A.P. Excise Act and on further undertaking to produce the same as and when required by the 1 respondent”.

However, having regard to the fact that the very appeal is pending before the appellate authority, no useful purpose would be served in admitting this matter.

Accordingly, the writ petition is disposed of, at the stage of admission, with a direction to the appellate authority – 1 respondent to dispose of the appeal preferred by the petitioner as expeditiously as possible. In the meanwhile, the interim direction referred to above shall be in subsistence. No costs.

kvsn 09-03-2005

To

- 1 The Dy. Commissioner of Proh & Excise, Hyderabad Division,
Opp. Exhibition Grounds, J.N. road, at Nampally, Hdyyerabad.
- 2 The Sub Inspector of Proh & Excise, (HO) Musheerabad,
at Musheerabad, Hyderabad.
- 3 Two CCs to GP for Excise, High Court buildings, Hyderabad.
- 4 2 CD copies